

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT
CASE TYPE: 14. Other Civil
(declaratory judgment and MERA)

State of Minnesota by Smart Growth
Minneapolis, LLC, Audubon Chapter of
Minneapolis and Minnesota Citizens for the
Protection of Migratory Birds,

Case File No. _____
The Honorable _____

PROPOSED ORDER

Plaintiffs,

v.

City of Minneapolis,

Defendant.

This matter came before the Court on _____, 2018 upon Plaintiffs State of Minnesota by Smart Growth Minneapolis, LLC, Audubon Chapter of Minneapolis and Minnesota Citizens for the Protection of Migratory Birds' (Plaintiffs) Motion for Temporary Restraining Order. Appearances were noted on the record.

This Court, having heard arguments of counsel and having reviewed the evidence, the records and files herein, including the Verified Complaint for Declaratory and Injunctive Relief Under MERA and the memorandum submitted with this motion, and being fully advised, now finds that this is a proper case for granting a temporary restraining order and so orders.

THIS COURT FINDS:

1. Plaintiffs gave Defendant City of Minneapolis (City) notice of this motion pursuant to Minn. R. Civ. P. 65.01.
2. The five *Dahlberg* factors weigh in favor of Plaintiffs' request for a temporary restraining order.

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. Plaintiffs' TRO Motion is **GRANTED**.

2. Defendant is enjoined from approving of the Minneapolis 2040 Comprehensive Plan (2040 Plan) at the upcoming meeting of its City Council at 9:30 a.m. on Friday, December 7, 2018.

3. This injunction shall continue unless and until City satisfies its Minnesota Environmental Rights Act (MERA)-required "rebut[tal]" to or "affirmative defense" to Plaintiffs' "prima facie showing" that the 2040 Plan "is likely to cause the pollution, impairment, or destruction of the air, water, land or other natural resources located within the state," presumably through a voluntary environmental review (*i.e.*, Environmental Impact Statement (EIS) or Alternative Urban Areawide Review (AUAR)).

4. No bond is required.

DATED: _____
Judge of the District Court

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